



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
COMMONWEALTH KEYSTONE BUILDING
400 NORTH STREET
HARRISBURG, PENNSYLVANIA 17120

IN REPLY PLEASE
REFER TO OUR FILE

January 6, 2025

A-2024-3051951

TO ALL PARTIES OF RECORD

Application of the Department of Transportation of the Commonwealth of Pennsylvania for approval to alter the public crossing (DOT 531 793 U) by the installation of a new crossing surface and active railroad warning devices where Crowl Toot Road (T-340) crosses, at grade, a single track of East Penn Railroad, LLC located in Lower Oxford Township, Chester County, all in accordance with the Federal Grade Crossing Safety Program and the allocation of costs incident thereto.

To Whom It May Concern:

This matter is before us by reason of an application received by the Commission on November 4, 2024, by the Department of Transportation of the Commonwealth of Pennsylvania (Department) seeking Commission approval to alter the public crossing (DOT 531 793 U) by the installation of a new crossing surface and active railroad warning devices where Crowl Toot Road (T-340) crosses, at grade, a single track of East Penn Railroad, LLC (ESPN) located in Lower Oxford Township (Township), Chester County.

Upon receipt of the subject application a field investigation and conference was arranged by a Commission staff engineer and held on November 20, 2024, at the site of the subject crossing. Representatives of the Township, ESPN, the Department, and Chester Water Authority were in attendance. Although notified by letter sent via electronic mail dated November 14, 2024, there were no representatives from Chester County, Armstrong Utilities, Columbia Gas of Pa, Inc., Comcast Cable Communications, Crown Castle Fiber, Frontier Communications, London Grove Township, Oxford Area Sewer Authority, Oxford Borough, PECO Energy Company, UGI Utilities, Inc., United Federal Data of PA, LLC or Verizon Pennsylvania, LLC in attendance.

On November 14, 2024, UGI Utilities, Inc., via electronic, mail contacted a Commission staff engineer averring they had no facilities at the subject crossing and requested to be removed as a party of record to the subject proceeding.

At the field conference, it was noted that the crossing is located on Crowl Toot Road (T-340) approximately 740-feet south of the intersection at Branch Road (T-315). Crowl Toot Road (T-340) is a two (2) lane, bi-directional asphalt paved roadway that crosses (DOT 531 793 U), at grade, a single track of ESPN. The existing railroad crossing consists of a timber and asphalt crossing surface which is equipped with post mounted crossbuck (R15-1) signs and emergency notification (I-13) signs only. It was noted that grade crossing advanced warning (W10-1) signs were present on each roadway approach and stop lines at the crossing were either missing or severely faded.

According to the Federal Railroad Administration's grade crossing database the crossing is located at mile post 45.92 on ESPN's Octoraro branch. The line experiences 1 daytime train movement at a maximum timetable speed of 10 miles per hour. The roadway was reported as having an average daily traffic volume of 394 vehicles with 1% truck traffic and has a posted speed limit of 35 miles per hour. There was no accident history at the subject crossing located within the Federal Railroad Administration's grade crossing database.

ESPN, at the Department's sole cost and expense, has agreed to: 1) remove the existing post mounted crossbuck and emergency notification signs at the crossing, and 2) install new active railroad warning devices including automatically operated LED flashing light warning signals, bell, individual signal mast, cantilever signal support and all associated circuitry.

ESPN, at its initial cost and expense, has agreed to: 1) remove the existing deteriorated timber and asphalt crossing surface, 2) install a new asphalt and rubber rail seal crossing surface, 3) upgrade drainage facilities by replacing a clogged cross pipe, and 4) provide a smooth bituminous transition from the approach roadway to the new crossing surface.

The Department, at its sole cost and expense, has agreed to reimburse ESPN up to 20% of the total costs of the improvement project toward construction of the new crossing surface and for providing maintenance and protection of traffic during construction. ESPN agrees to pay any remaining balance exceeding the funds provided by the Department.

ESPN, at its sole cost and expense, has agreed to the future maintenance of all railroad facilities at the subject crossing including the new active railroad warning devices and the crossing surface.

The Township, at its sole cost and expense, has agreed to install the missing stop lines at the crossing in addition to grade crossing pavement markings in advance of the crossing.

The Township, at its sole cost and expense, has agreed to and to maintain its highway facilities in advance of and at the subject public crossing including the roadway surface, advanced grade crossing warning signs, pavement markings, and stop lines.

Final plans consisting of seven (7) sheets of situation and detailed circuitry plans entitled "CROWL TOOT ROAD DOT # 531 793U MP. 45.92 OXFORD, CHESTER COUNTY, PA" were included with the application.

Non-carrier public utilities and/or municipalities will be directed to relocate their facilities, at their initial cost and expense, if necessary. It will not be necessary for the Commission to appropriate railroad property to accommodate the improvement.

The project will be funded through the Federal Highway Grade Crossing Safety Program, disbursed through the Department with an estimated project cost of \$285,734.

Prior to the submittal of the Department's application a formal complaint docketed at C-2024-3045375 was filed with the Commission by a private citizen (Stephen Poole) on December 13, 2023. The complaint alleged that the existing timber and asphalt crossing surface at the subject crossing was in poor condition and in need of repair. Upon receipt of the complaint a field investigation and conference was arranged by a Commission staff engineer and held on February 5, 2024, at the site of the crossing. ESPN agreed to make temporary repairs to the crossing surface and the Department averred that it would work to program a Section 130 Federal Aid project to replace the crossing surface and upgrade the grade crossing warning devices.

Since the Department has filed an application with the Commission seeking approval to alter the subject public crossing by replacing the crossing surface and installing active railroad warning devices, the Commission will dismiss and close the proceeding docketed at C-2024-3045375 upon satisfactory completion of the work directed by this Secretarial Letter. The Complainant (Stephen Poole) of the Commission's proceeding docketed at C-2024-3045375 will be made a party of record to the subject proceeding.

The proposed alteration was discussed in detail at the field conference with all attending parties of record and none have advised that they object to the issuance of a Secretarial Letter, prior to hearing, approving the alteration of the crossing.

The Commission hereby establishes its jurisdictional limits at the subject public crossing as the area within the confines of the railroad and highway right-of-way.

The Commission has exclusive jurisdiction in crossing alterations and is the final arbiter of any fees associated with a crossing application. Any conditions, including fees associated with a crossing application, must be approved by the Commission.

Upon full consideration of the matters involved and inasmuch as no objection has been filed with the Commission, we find that a Secretarial Letter can be issued approving the application without a formal hearing.

The Commission issues this Secretarial Letter in accordance with Section 2702 of the Public Utility Code and finds that the alteration of the subject public crossing is necessary and proper for the service, accommodation, convenience, or safety of the public; THEREFORE:

1. UGI Utilities, Inc. be removed as a party hereto.
2. Stephen Poole be made a party hereto.
3. The caption of the subject proceeding is hereby revised as shown herein.

4. The seven (7) sheets of situation and detailed circuitry plans received by the Commission with the application on November 4, 2024, entitled "CROWL TOOT ROAD DOT # 531 793U MP. 45.92 OXFORD, CHESTER COUNTY, PA" are made part hereof and are hereby approved except insofar as they may relate to the division of work, deletion of work, or the allocation of costs and expenses incident to the construction of the project.

5. The public crossing (DOT 531 793 U) where Crawl Toot Road (T-340) crosses, at grade, a single track of East Penn Railroad, LLC in Lower Oxford Township, Chester County be altered as herein directed.

6. East Penn Railroad, LLC, at the Pennsylvania Department of Transportation's sole cost and expense, furnish all material and perform all work necessary to alter the subject crossing by: 1) removing the existing post mounted crossbuck and emergency notification signs, and 2) installing new active railroad warning devices including automatically operated LED flashing light warning signals, bell, individual signal mast, cantilever signal support and all associated circuitry; all in accordance with the approved plans, Part 8 of the Manual on Uniform Traffic Control Devices and this Secretarial Letter.

7. East Penn Railroad, LLC, at its initial cost and expense, furnish all material and perform all work necessary to alter the subject crossing by: 1) removing the existing timber and asphalt crossing surface, 2) installing a new asphalt and rubber rail seal crossing surface, 3) installing a new cross pipe, and 4) providing a safe, smooth and satisfactory transition to the new crossing surface by restoring the pavement with bituminous material for the full width of the approach roadway and shoulders; all in accordance with the approved plans and this Secretarial Letter.

8. The Pennsylvania Department of Transportation will reimburse East Penn Railroad, LLC up to 20% of the total costs of the project toward construction of the new crossing surface in accordance with Numbered Paragraph 7 of this Secretarial Letter. Said total project costs, excluding the crossing surface work, including all design, construction (materials and labor), construction inspection and traffic control necessary for the installation of the warning devices.

9. East Penn Railroad, LLC, at the Pennsylvania Department of Transportation's sole cost and expense, furnish all material and perform all work necessary to establish and maintain any detours or traffic controls that may be required to properly and safely accommodate vehicular and pedestrian traffic during the time the crossing is being altered.

10. East Penn Railroad, LLC, at its initial cost and expense, furnish all material and perform all work necessary to furnish any watchmen, flagmen, inspectors, and/or engineering services that may be deemed necessary to protect the railroad's operations or facilities during the time the facilities are being altered.

11. Lower Oxford Township, at its sole cost and expense, furnish all material and perform all work necessary to install stop lines at the crossing and grade crossing pavement markings in advance of the subject crossing, all in accordance with Part 8 of the Manual on Uniform Traffic Control Devices and this Secretarial Letter.

12. Any relocation of, changes in and/or removal of any adjacent structures, equipment or other facilities of any non-carrier public utility company or municipal authority, which may be required as incidental to the alteration of the crossing be made by said public utility company or municipal authority at its initial cost and expense, and in such a manner as will not interfere with the alteration of the crossing; and such relocated or altered facilities thereafter be maintained by said public utility or municipal authority at its sole cost and expense.

13. All parties involved herein cooperate fully with each other so that during the time the work is being performed, vehicular, pedestrian and railroad traffic will not be endangered or unnecessarily inconvenienced, and so that the requirements of each of the parties will be provided for and accommodated insofar as possible.

14. East Penn Railroad, LLC, cooperate with the non-carrier utilities involved, so that during the alteration of the involved crossing, the facilities of the non-carrier utilities will not be endangered or unnecessarily interrupted.

15. East Penn Railroad, LLC, at least seven (7) days prior to the start of work, notify local emergency management services and all parties of record of the actual date on which work will begin.

16. The alteration of the crossing be completed on or before December 31, 2025, and that on or before said date the East Penn Railroad, LLC, report in writing the date of actual completion of the work to this Commission and certify to the parties of record and this Commission that the work has been satisfactorily completed in accordance with this Secretarial Letter.

17. East Penn Railroad, LLC, at its sole cost and expense, pay all compensation for damages, if any, due to the owners of property taken, injured, or destroyed by reason of the alteration of the crossing in accordance with this Secretarial Letter.

18. This Secretarial Letter is without prejudice to the right of any party to recover part or all of any costs incurred by said party in compliance with the provisions of this Secretarial Letter, in accordance with any lawful agreement between it and any other party.

19. The terms of any agreement established in accordance with this Secretarial Letter shall not preclude the Pennsylvania Public Utility Commission from taking any action necessary to protect the public interest, including but not limited to the reassignment or enforcement of any costs or responsibilities assigned or transferred as a result of this Secretarial Letter.

20. All costs which are to be reimbursed by the Department of Transportation consistent with this Secretarial Letter, shall be reimbursed pursuant to the provisions of 23 C.F.R. Part 140, 646. The aforesaid Federal reimbursement shall not supersede, delay or, in any manner, postpone the effect of any paragraph contained in this or any related Secretarial Letter or Order.

21. Upon completion of the alteration of the crossing, East Penn Railroad, LLC, at its sole cost and expense, furnish all material and perform all work necessary thereafter to maintain its railroad facilities at the subject crossing, including the new cross pipe, warning devices and all appurtenant equipment, and maintain at all times in a safe, smooth and satisfactory condition the crossing surface located between the rails and for a distance of twenty-four (24) inches beyond the outermost rails; all in accordance with the approved plans, Part 8 of the Manual on Uniform Traffic Control Devices and this Secretarial Letter, and provide Lower Oxford Township at least ten (10) business days advance notice when performing any work as directed by this paragraph that may affect their facilities.

22. Upon completion of the alteration of the crossing, Lower Oxford Township, at its sole cost and expense, furnish all material and perform all work necessary thereafter to maintain the highway approach roadway of the subject crossing to points twenty-four (24) inches beyond each outside rail, and in addition, maintain the grade crossing advance warning signs, pavement markings, and stop lines; all in accordance with Part 8 of the Manual on Uniform Traffic Control Devices and this Secretarial Letter, and provide East Penn Railroad, LLC at least ten (10) business days advance notice when performing any work as directed by this paragraph that may affect their facilities.

23. Upon completion of the alteration of the crossing, each non-carrier public utility company and municipal authority, at its sole cost and expense, furnish all material and perform all work necessary thereafter to maintain its respective facilities, existing or altered, located within the limits of the improvement.

24. Upon completion of the work herein directed, and upon written request from any party of record, this proceeding be scheduled for a hearing at a time and place to be determined by the Commission, for the purpose of taking testimony upon the final allocation of any costs incurred by the non-carrier utility companies and municipal authorities and other matters relevant to this proceeding.

The Parties are reminded that failure to comply with this or any Order or Secretarial Letter in this proceeding may result in an enforcement action seeking civil penalties and/or other sanctions pursuant to 66 Pa. C.S. § 3301.

All formal documents must be filed with the Secretary of the Commission. Documents must be eFiled, mailed or hand delivered. All filings should be addressed to the Secretary, PA Public Utility Commission, 400 North Street, Harrisburg, PA 17120. The Commission will not accept documents delivered by fax or by e-mail. Parties are encouraged to file formal documents by eFiling with the Secretary of the Commission by opening an eFiling account through the Commission's website (the account is free of charge) and accepting eservice at <https://www.puc.pa.gov/filing-resources/efiling/>.

If your filing contains confidential material, you are required to file by overnight delivery to ensure the timely filing of your submission. There are certain filings that cannot be eFiled, such as filings containing confidential or proprietary material. These must be submitted to the Secretary by overnight delivery, priority, or certified mail to allow tracking of your filing.

If you are dissatisfied with the resolution of this matter, you may, as set forth in 52 Pa. Code §§ 1.31 and 5.44, file a Petition for Reconsideration from Staff Action (Petition) with the Commission within twenty (20) days of the date of this letter. The Petition shall be eFiled with the Secretary of the Commission or sent to: Secretary, PA Public Utility Commission, 400 North Street, Harrisburg, PA 17120, and must be filed within twenty (20) days, or if no timely request is made, the action will be deemed to be a final action of the Commission.

The Petition MUST include: (1) a written statement (divided into numbered paragraphs) outlining the reasons for the request; (2) the case docket number (it is provided for you at the top right-hand corner of this letter); (3) the party on whose behalf the petition is made; (4) a Certificate of Service on the other parties of record; and (5) a Verification with original signature in accordance with 52 Pa. Code § 1.36.

Sincerely

A handwritten signature in cursive script, appearing to read "Rosemary Chiavetta".

Rosemary Chiavetta
Secretary